(Spl.-H.C.A.S.C.D., 78-e)

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF BOMBAY AT GOA
PANAJI, GOA.
APPELLATE SIDE

DISTRICT :

WRIT PETITION NO. 10 OF 2005

Office Notes, Office Memoranda of Quorum, appearances,Court's orders of directions and Registrar's orders	Court's or Judge's orders

Ms. Hema Sampat with Mr. E. P. Badrinarayanan, Advocate for the Petitioner.

Mr. U. R. Timble, Advocate for Respondent No. 1.

Mr. R. G. Ramani, Advocate for Respondent No. 2.

CORAM : A. P. LAVANDE, J.

DATE : 10th FEBRUARY, 2005.

P.C. :

By this Petition, the Petitioner assails the order dated 7.01.05 passed by Civil Judge, Senior Division, Vasco-da-Gama vide Civil

Miscellaneous Application No. 19/04/A in Special Civil Suit No. 42/04/A filed by the present petitioner against respondent no. 1 herein, the Garnishee, Shiping Corporation of India, respondent no. 2 herein.

2. Respondent No. 1 has filed affidavit dated 19.01.05 of Shri Joseph C. F. Sequeira. In para 14 of the said affidavit, it has been stated that the dues payable by Shiping Corporation of India, respondent no. 2 herein, have already been paid except for the amount of Rs.2 crore retained under order of this Court dated 4.11.04 passed in Writ Petitions No. 493 and 494 of 2004.

3. Mr. Timble, learned Counsel appearing for respondent No. 1, submits that in view of the payment made by respondent no. 2, the Petition has become infructuous. Mr. Ramani, learned Counsel appearing for respondent no. 2 herein also confirms the satement made by Mr. Joseph Sequeira in his affidavit. Ms. Hema Sampat, learned Counsel appearing for the petitioner does not dispute this position. However, the learned Counsel submits that there are certain findings given by the trial Court in the impugned order on the merits of the case which may prejudice the plaintiff in course of trial as well as the decisions that may be passed in the applications which the petitioner herein proposes to

file. Needless to mention that findings given by the Court at the interim stage do not bind the Court while deciding the case finally. The trial Court is expected to take a note of this legal position and decide the suit as well as the applications, if any, filed by the petitioner herein, in the trial Court on merits.

4. In view of the above, the Writ Petition is dismissed subject to the observations made hereby.

A. P. LAVANDE, J.

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